

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13920, of Charles and Della Lowery, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3103.3) to permit the conversion of a single family dwelling into a three unit apartment house in an R-3 District at premises 2524 Elvans Road, S.E., (Square 5874, Lot 859).

HEARING DATES: February 16, and April 13, 1983
DECISION DATE: May 4, 1983

FINDINGS OF FACT:

1. At the public hearing of February 16, 1983, the applicants, upon the recommendation of the Board, consulted with the staff as to the burden they must meet to establish grounds for a use variance. Subsequently the applicants stated that they were not prepared on that date to go forward on the merits. The applicant requested a continuance. The hearing was rescheduled for April 13, 1983.
2. The subject property is located in an R-3 District, north of Suitland Parkway, and is known as premises 2524 Elvans Road, S.E.
3. The subject site had previously been zoned R-5-A. After community protests regarding excessive multi-family developments in the area, the area was rezoned to R-3 by Zoning Commission Order No. 227, dated August 10, 1978.
4. The subject lot is basically level and rectangular in shape containing 10,163 square feet of space. The lot slopes gently from the front to the rear. The lot is improved with a two story plus basement, detached structure which was built in 1920 and is composed of various materials. The basement is fifty percent out of grade at the Elvans Road frontage and 100 percent out of grade at the rear. The rear entrance is at grade level.
5. The subject structure appears to have been used as a single family dwelling. The premises is now vacant, boarded up, and dilapidated. When the applicants purchased the property in 1982, the premises was in its present condition.
6. The subject structure is one of a dozen single family detached dwelling units on Elvans Road, S.E. The

spacing of these single family dwelling units is sporadic such that several lots to the east of the subject structure are vacant, as are all of the lots to the south. These southern lots are located on a steep incline which ultimately levels out and terminates at the Suitland Parkway. The surrounding area is characterized by R-5-A zoning and garden apartment complexes. There are large garden apartment complexes at both the eastern and western points of Elvans Road, as well as to the north and south. Many of the structures in the surrounding area exhibit signs of decline and deterioration. Overall, decay is characteristic of the area.

7. The applicants are seeking a use variance in order to convert a single family dwelling unit into a three unit apartment house.

8. The plans submitted by the applicant depict three apartment units, a one bedroom apartment located on the ground floor, a two bedroom apartment located on the first floor, and an efficiency apartment located on the second floor. Access to the ground and first floor apartments will be by way of a separate front entrance. Each unit will be equipped with a kitchen and a bathroom. The total square footage for the ground and first floor apartments will be approximately 1,032 square feet. The total square footage for the second floor efficiency will be approximately 528 square feet. The placement of windows within each unit would be such that each unit will receive adequate light and air. The conversion to a three unit apartment house will be accomplished without adding to or enlarging the existing structure. The applicants intend to provide two on-site parking spaces.

9. The conversion of a building or other structure existing before May 12, 1958 to an apartment house is first permitted as a matter-of-right in an R-4 District. An apartment house is first permitted as a matter-of-right in an R-5-B District. This application for a three unit apartment house in an R-3 District necessitates a use variance.

10. The applicants must demonstrate that some condition inherent in and peculiar to the subject site does not permit a reasonable use of the site in accordance with the R-3 zoning requirements and that strict application of the R-3 requirements would result in an undue hardship upon the owner. There must also be a showing that the use variance can be granted without substantial adverse impacts, and that its granting will not impair the intent, purpose, and integrity of the zone plan for the city.

11. The applicants testified there is no condition inherent in or peculiar to the subject site which precludes a reasonable use of the site in accordance with R-3 requirements. However, the applicants argued that the use variance

can be granted without causing substantial adverse impact. The rehabilitation of the subject structure would most likely have a beneficial impact. The rehabilitation of the subject structure would augment the scarce supply of rental housing in the area as well as enhance the neighborhood and improve surrounding property values.

12. The applicants now reside at the premises directly west of and abutting the subject site. The applicants intend to eventually live in one of the three proposed units on the subject lot. The applicants testified that they seek the variance relief since it will be the most practical and economic means of restoring a neighborhood nuisance. The rehabilitation will enhance their present residence and will increase the applicants income.

13. The Office of Planning, by report dated February 9, 1983, recommended that the subject application be denied. The Office of Planning reported that the strict zoning standards by which a use variance application must be judged warrant a denial of this application. The Office of Planning further reported, however, that given the depressed state of the surrounding area, as well as the substantial amount of land zoned R-5-A in close proximity to the subject premises, it is unrealistic to expect the subject structure to be used as a single family dwelling unit. The Office of Planning reported that any rehabilitation and use of the subject structure would have a beneficial impact upon the surrounding area.

14. In regard to conditions inherent in or perculiar to the subject site which warrant granting a use variance, the Board concurs with both the applicant and the OP. No such conditions are inherent in the subject property. The premises appears to have been built and used for single family dwelling purposes. No characteristic of the site prevents such use in the future. The Board does not concur with the Office of Planning's statement that it is unrealistic to expect the subject structure to be used as a single family dwelling.

15. Advisory Neighborhood Commission 8A did not submit a report on the subject application.

16. There was no opposition to the application at the public hearing. There were two letters in opposition to the application on the grounds that additional multi-family developments in the area would disrupt the single family dwelling environment. There were several letters in support of the application on the grounds that the proposed rehabilitation of the subject premises would enhance the neighborhood and provide needed housing. The Board does not concur with the opposition as stated since they do not address the zoning issue before the Board.


CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of a hardship that is inherent in the property which precludes the reasonable use of that property for the purposes for which it is zoned. The Board concludes that there is no probative evidence of such a hardship on record. The Board concludes that the applicants' request derives from a desire to obtain a financial return on the investment in the subject site. The Board concludes that the subject property has been in the past and could be in the future used as a single family dwelling. The applicants are able to rehabilitate the property as a single family unit. The fact that a multi-unit development of the property could be more economically remunerative is not cause to grant the use variance. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 5-0 (Carrie Thornhill, Walter B. Lewis, William F. McIntosh, Charles R. Norris to DENY; Douglas J. Patton to DENY by PROXY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUL 28 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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